IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.18725 of 2008
NARESH YADAV
Versus
THE STATE OF BIHAR
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4. 9.9.2008 Heard.

In the light of the rejection order and the facts recorded there, I am not inclined to reconsider the prayer for bail. Petition is dismissed.

However, I am not also happy with the manner the trial of the case is being carried on by the Judge or Judges who could have received the case(Sessions Trial no.206 of 2005) in their respective files. As per the report of the learned Judge, presently seized, with the trial, the case is pending for evidence since 22nd of September, 2005 and no witness has been examined till date. What the learned Judge appears doing it to issue the warrant of arrest bailable or non-bailable against the witnesses as also writing a letter to the Senior Superintendent of Police, Patna for production of the witnesses along with a reminder in that behalf. The learned Judge has noted down that not even a single witness turned up before the court below till 8.8.2008 when the report was made and the

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next date fixed in the matter was on 22nd August of 2008. This court does not know whether any witness has been produced before him or not.

I have dictated an order in Misc.Petition no.17985 of 2008 which is related to the Judgeship of Ara and a similar situation was obtained in that case. The Judges of different Judgeships appear drawing solace merely by issuing warrant of arrest or writing a letter to the S.P.P., they did not turn to the provision like Section 170(2)Cr.P.C. or to the decision of the Supreme Court in **AIR 2002 SC 270 Shailendra Kumar Vrs. State of Bihar** and act accordingly. Not only that they do never worry as to why the process issued under their signatures, are not being executed and what could be the ultimate remedy for enforcing the execution of such instruments for production of a witness or an accused. The behaviour of the Judges indicate as if they are least concerned about the fact that a man is in custody since years and they simply want to enjoy their own position. Before this court does record certain remarks against such officers, it is high time that they should identify their duties and act

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accordingly. The Presiding Judge shall act accordingly and seek execution of the warrant against the witnesses by taking appropriate steps as per the provision of the Cr.P.C. or of any other provision of any other law for the time being in force and ensure the disposal of the case in a period of nine months from the date of receipt/production of a copy of the present order.

(Dharnidhar Jha, J.)

B.Kr.

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